

1 [Counsel listed on signature pages]
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5
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

IN RE: CAPACITORS ANTITRUST
LITIGATION

THIS DOCUMENT RELATES TO:

ALL ACTIONS

Master File No. 14-CV-03264-JD

**JOINT STATEMENT REGARDING
PROPOSED CASE SCHEDULE**

Pursuant to the Court's direction at the May 27, 2015 status conference and subsequent Minute Entry (Dkt. 724), Direct Purchaser Plaintiffs ("DPPs"), Indirect Purchaser Plaintiffs ("IPPs" and, together with DPPs, "Plaintiffs"), and Defendants have met and conferred at length regarding an expeditious yet workable discovery schedule in light of the Court's lifting of the discovery stay. As a result of these discussions, the parties jointly request that the Court adjust the existing case schedule and adopt the parties' jointly-proposed dates for the production of discovery¹ and briefing on FTAIA issues and class certification, as set forth in the chart below. Plaintiffs and Defendants share the view, based on their extensive meet and confer efforts, that the following schedule is needed for discovery to proceed in an orderly and efficient manner:

| Event | Date |
|---|---------------|
| Defendants complete production of transactional data from active systems (if not already produced) | June 10, 2015 |
| Plaintiffs substantially complete production of transactional data/invoices | June 10, 2015 |
| Parties complete negotiations regarding Defendants' document custodians | June 10, 2015 |
| Parties complete negotiations regarding search terms | June 12, 2015 |
| Parties submit any disputes regarding Defendants' custodians or search terms to the Court | June 19, 2015 |
| Plaintiffs submit initial written questions to Defendants concerning Defendants' transactional sales data (to the extent not already submitted), for which Defendants will provide substantive responses by August 1, 2015 ² | June 19, 2015 |

¹ The parties acknowledge that individual issues sometimes arise with respect to certain documents. These jointly-proposed production dates are thus subject to any such individual issues that particular Defendants may raise with Plaintiffs, or that Plaintiffs may raise with Defendants. Additionally, these dates apply to the production of materials responsive to the discovery requests served to date. Should any further discovery requests be served, the parties will meet and confer regarding any necessary adjustments or additions to the production schedule.

² The parties recognize that questions regarding transactional sales data often require further investigation by the producing party's counsel and/or foreign business units. Defendants are committed to working with Plaintiffs in good faith to provide substantive responses to data-related questions on a rolling basis in advance of the agreed-upon deadline of August 1, 2015, and to address by August 1, 2015 any follow-up questions seeking clarification of such responses. Defendants further commit to engage in good-faith efforts to respond to any new transactional data-related questions that Plaintiffs submit after June 19, 2015 on a rolling basis as soon as the

| | | |
|----|---|--------------------|
| 1 | Defendants complete production of documents from centralized files responsive to Plaintiffs' first set of document requests (if not already produced) | June 30, 2015 |
| 2 | Defendants produce any documents from centralized files relating to trade association membership and/or meetings | July 10, 2015 |
| 3 | Defendants complete submission of rolling responses to Plaintiffs' initial transactional sales data-related questions received prior to June 19, 2015 | July 17, 2015 |
| 4 | Defendants begin rolling productions of documents from their document custodians ³ | July 29, 2015 |
| 5 | Parties complete process of answering questions concerning Defendants' transactional sales data received by June 19, 2015 and any questions requesting clarification of Defendants' prior substantive responses | August 3, 2015 |
| 6 | Defendants produce any documents from centralized files relating to costs of manufacturing capacitors | August 7, 2015 |
| 7 | Parties indicate whether they intend to use experts in FTAIA briefing | August 17, 2015 |
| 8 | Defendants substantially complete production of documents from centralized files | August 21, 2015 |
| 9 | Defendants produce privilege logs regarding documents from centralized files | September 15, 2015 |
| 10 | FTAIA motions filed | October 1, 2015 |
| 11 | Defendants substantially complete rolling productions of documents from their document custodians | October 15, 2015 |
| 12 | Plaintiffs substantially complete production of documents responsive to Defendants' document requests | October 15, 2015 |
| 13 | FTAIA oppositions filed | October 30, 2015 |
| 14 | Defendants produce privilege logs regarding documents from their document custodians | November 10, 2015 |
| 15 | Plaintiffs produce privilege logs regarding documents responsive to Defendants' document requests | November 10, 2015 |
| 16 | FTAIA replies filed | November 20, 2015 |

25 relevant information becomes available without delay, and no later than five weeks after the new
 26 transactional data questions were received by Defendants.

27 ³ Custodial productions will be based on the parties' agreed-upon document custodians and search
 28 terms. The parties have agreed that custodial documents will be produced on a rolling basis with
 regular production dates agreed to among the parties in good faith, and that Defendants will
 prioritize productions from certain custodians based on good faith requests from Plaintiffs.

| | | |
|---|--|-------------------|
| 1 | Class certification motions filed ⁴ | February 12, 2016 |
| 2 | Class certification oppositions filed | May 2, 2016 |
| 3 | Class certification replies filed | June 27, 2016 |

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5 The jointly-proposed schedule above is still highly aggressive and substantially more fast-
6 paced than in comparable antitrust multi-district litigations.⁵ It reflects the parties' ongoing and
7 extensive efforts to work together to design a workable discovery schedule, as well as the
8 productions to date and the parties' substantial work to collect and produce responsive documents
9 in light of the Court's recent lifting of the discovery stay. At the initial case management
10 conference on October 29, 2014, the Court stayed discovery in the case, including all document
11 discovery (Dkt. 309). While the Court ordered on January 14, 2015 that limited discovery could
12 proceed on eight specific topics (not including documents produced to the U.S. Department of
13 Justice ("DOJ")), the discovery stay otherwise remained in place (Dkt. 514). During this time,
14 Defendants worked with Plaintiffs to collect and produce documents that were within the scope of
15 permissible discovery, including organizational charts, product catalogs and specification sheets,
16 transactional sales data, customer lists, price lists, and marketing materials. On April 6, 2015, the
17 DOJ indicated that it no longer objected to Defendants' production of documents prepared in the
18 ordinary course of business that had been produced to the grand jury, and that it did not seek an
19

20 ⁴ Regarding the parties' proposed adjustment in the class certification schedule, Plaintiffs believe
21 it is critical for their experts to understand what claims remain in the case prior to producing
22 expert reports. This process can only take place after the Court's ruling on the FTAIA motions,
23 the resolution of which may affect the scope of the claims Plaintiffs respectively seek to certify.
24 Accordingly, Plaintiffs request that the Court afford them at least 60 days following the Court's
25 ruling on FTAIA matters to file their respective motions for class certification.

26 ⁵ See *In re TFT-LCD (Flat Panel) Antitrust Litigation*, Order Re: Pretrial and Trial Schedule,
27 Nov. 23, 2010 (Dkt. 2165), No. 07-md-1827-SI (N.D. Cal.) (setting discovery cut-off in May
28 2011, more than four years after class cases were filed in late 2006 and early 2007); *In re Optical
Disk Drive Antitrust Litigation*, Order Re Discovery Matters, Dec. 17, 2012 (Dkt. 730), Case No.
10-md-2143-RS (JCS) (N.D. Cal.) (allowing document production in class cases to continue on a
rolling basis until January 2013, approximately fifteen months after the start of document
discovery); *In re Lithium Batteries Antitrust Litigation*, Stipulation and Order Regarding Defs.'
Document Productions, Mar. 12, 2015 at 2 (Dkt. 678), Case No. 13-md-2420-YGR (DMR) (N.D.
Cal.) (scheduling document production to end in mid-February 2016, nearly three and a half years
after the action's inception).

1 extension of the discovery stay (Dkt. 631). Accordingly, on April 7, 2015, the Court lifted the
2 discovery stay and permitted discovery to proceed along the terms of the parties' stipulated
3 protective order (Dkt. 632).

4 Since the lifting of the discovery stay, all Defendants have produced the documents they
5 previously produced to the DOJ, most within two weeks of receiving Plaintiffs' request. The
6 parties have also continued to meet and confer regarding the scope and timing of document
7 productions, through individual calls, joint in-person meetings on April 20 and May 7, 2015, and
8 subsequent email exchanges and telephonic conferences. Many of the dates set forth in the
9 schedule above, including those relating to the negotiation of document custodians and search
10 terms, are the result of these meetings. The parties' meet and confer efforts have also addressed
11 production of documents from the representative Plaintiffs, who have agreed to begin their
12 productions shortly, by June 10, 2015.

13 The parties also propose this schedule to take into account the breadth of all parties'
14 outstanding discovery requests and the significant work needed to respond to them. Defendants
15 have, for example, agreed to search centrally-located files for responsive documents (which is
16 currently in progress), as well as files from document custodians based on agreed-upon search
17 terms. The parties are in the process of negotiating appropriate document custodians and search
18 terms pursuant to the schedule they agreed upon in early May. Discovery in this case also
19 involves significant amounts of information in Japanese and other non-English languages, making
20 the process of collecting, reviewing, and producing responsive materials more complicated and
21 time-consuming. Some Defendants' files are maintained primarily in hard copy, which will
22 require even more time to review, scan and generate text files if possible, and produce in a usable
23 format. Under these circumstances, Defendants do not believe that a shorter production schedule
24 is realistic.

25 Additionally, given the Court's recent Order on Motions to Dismiss (Dkt. 710), DPPs and
26 IPPs plan to file amended complaints by June 16, 2015. These amended complaints will require
27 responsive pleadings, potentially including further motions to dismiss. The parties are meeting
28 and conferring on an appropriate schedule for such motions or other responsive pleadings and

1 anticipate submitting a stipulation to the Court shortly. In light of these additional pleadings, the
2 extensive discovery that is already underway, and the parties' good faith efforts to work together
3 cooperatively to move the case forward, the proposed schedule above is warranted and needed for
4 the litigation to proceed efficiently.

5 Dated: June 3, 2015

JOSEPH SAVERI LAW FIRM, INC.

6 By: /s/ Joseph R. Saveri
7 Joseph R. Saveri

8 Joseph R. Saveri (SBN 130064)
9 Joshua P. Davis (SBN 193254)
10 Andrew M. Purdy (SBN 261912)
11 Matthew S. Weller (SBN 236052)
12 James G. Dallal (SBN 277826)
13 Ryan J. McEwan (SBN 285595)
14 505 Montgomery Street, Suite 625
15 San Francisco, CA 94111
16 Telephone: (415) 500-6800
17 Facsimile: (415) 395-9940
18 jsaveri@saverilawfirm.com
19 jdavis@saverilawfirm.com
20 apurdy@saverilawfirm.com
21 jdallal@saverilawfirm.com
22 rmcewan@saverilawfirm.com

23 *Interim Lead Class Counsel for Direct Purchaser Plaintiffs*

24 COTCHETT PITRE & McCARTHY, LLP

25 By: /s/ Adam J. Zapala
26 Adam J. Zapala

27 Joseph W. Cotchett (SBN 36324)
28 Steven N. Williams (SBN 175489)
29 Adam J. Zapala (SBN 245748)
30 Elizabeth Tran (SBN 280502)
31 Joyce Chang (SBN 300780)
32 840 Malcolm Road, Suite 200
33 Burlingame, CA 94010
34 Telephone: (650) 697-6000
35 Facsimile: (650) 697-0577
36 jcotchett@cpmlegal.com
37 swilliams@cpmlegal.com
38 azapala@cpmlegal.com
39 etran@cpmlegal.com

1 jchang@cpmlegal.com
2
3

4 *Interim Lead counsel for Indirect Purchaser Plaintiffs*
5
6

7 MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
8 AND POPEO, P.C.
9
10

11 By: /s/ Bruce D. Sokler
12 Bruce D. Sokler
13
14

15 Bruce D. Sokler (admitted *pro hac vice*)
16 701 Pennsylvania Avenue NW, Suite 900
17 Washington, DC 20004
18 Telephone: (202) 434-7300
19 Facsimile: (202) 434-7400
20 bdsokler@mintz.com
21
22

23 Evan S. Nadel (SBN 213230)
24 44 Montgomery Street, 36th Floor
25 San Francisco, CA 94104
26 Telephone: (415) 432-6000
27 Facsimile: (415) 432-6001
28 enadel@mintz.com
29
30

31 *Attorneys for Defendant AVX Corporation*
32
33

34 WILMER CUTLER PICKERING HALE AND DORR
35 LLP
36
37

38 By: /s/ Heather S. Tewksbury
39 Heather S. Tewksbury
40
41

42 Heather S. Tewksbury (SBN 222202)
43 950 Page Mill Road
44 Palo Alto, CA 94304
45 Telephone: (650) 858-6134
46 Facsimile: (650) 858-6100
47 heather.tewksbury@wilmerhale.com
48
49

50 Thomas Mueller (admitted *pro hac vice*)
51 1875 Pennsylvania Avenue, NW
52 Washington, DC 20006
53 Telephone: (202) 663-6766
54 Facsimile: (202) 663-6363
55 thomas.mueller@wilmerhale.com
56
57

58 *Attorneys for Defendants ELNA Co. Ltd. and ELNA*
59 *America, Inc.*
60
61

1 MORRISON & FOERSTER LLP
2

3 By: /s/ Paul T. Friedman
4 Paul T. Friedman
5

6 Paul T. Friedman (SBN 98381)
7 Michael P. Kniffen (SBN 263877)
8 425 Market Street
9 San Francisco, California 94105-2482
10 Telephone: (415) 268-7000
11 Facsimile: (415) 268-7522
12 PFriedman@mofo.com
13 MKniffen@mofo.com

14 Jeffrey A. Jaeckel (admitted *pro hac vice*)
15 2000 Pennsylvania Avenue, NW Suite 6000
16 Washington, District of Columbia 20006-1888
17 Telephone: (202) 887-1500
18 Facsimile: (202) 887-0763
19 JJaekel@mofo.com

20 *Attorneys for Defendants Fujitsu Limited, Fujitsu*
21 *Semiconductor America, Inc., and Fujitsu Components*
22 *America, Inc.*

23 WILSON SONSINI GOODRICH & ROSATI PC
24

25 By /s/ Jonathan M. Jacobson
26 Jonathan M. Jacobson
27

28 Jonathan M. Jacobson
19 Chul Pak (admitted *pro hac vice*)
20 Jeffrey C. Bank (admitted *pro hac vice*)
21 1301 Avenue of the Americas, 40th Floor
22 New York, New York 10019
23 Telephone: (212) 497-7758
24 Facsimile: (212) 999-5899
25 jjacobson@wsgr.com
26 cpak@wsgr.com
27 jbank@wsgr.com

28 Jeff VanHooreweghe (admitted *pro hac vice*)
1700 K Street, N.W., Fifth Floor
Washington, DC 20006
Telephone: (202) 973-8825
Facsimile: (202) 973-8899
jvanhooreweghe@wsgr.com

*Attorneys for Defendants Hitachi Chemical Co., Ltd.,
Hitachi Chemical Company America, Ltd., and
Hitachi AIC Incorporated*

JONES DAY

By: /s/ Eric P. Enson
Eric P. Enson

Jeffrey A. LeVee (SBN 125863)
Eric P. Enson (SBN 204447)
Rachel H. Zernik (SBN 281222)
555 South Flower Street, Fiftieth Floor
Los Angeles, CA 90071-2300
Telephone: (213) 489-3939
Facsimile: (213) 243-2539
jlevee@JonesDay.com
epenson@JonesDay.com
rzernik@jonesday.com

Counsel for Defendants Holy Stone Enterprise Co., Ltd., Holy Stone International, Vishay Intertechnology Inc., and Vishay Polytech Co., Ltd.

PILLSBURY WINTHROP SHAW PITTMAN LLP

By: */s/ Jacob R. Sorensen*
Jacob R. Sorensen

Roxane A. Polidora (CA Bar No. 135972)
Jacob R. Sorensen (CA Bar No. 209134)
Lindsay A. Lutz (CA Bar No. 254442)
Four Embarcadero Center, 22nd Floor
San Francisco, CA 94111
Telephone: (415) 983-1000
roxane.polidora@pillsburylaw.com
jake.sorensen@pillsburylaw.com
lindsay.lutz@pillsburylaw.com

*Attorneys for Defendants KEMET Corporation and
KEMET Electronics Corporation*

1 DENTONS US LLP
2

3 By: /s/ Bonnie Lau
4
5 Bonnie Lau
6
7

8 Bonnie Lau (SBN 246188)
9 525 Market Street, 26th Floor
10 San Francisco, CA 94105
11 Telephone: (415) 882-5000
Facsimile: (415) 882-0300
bonnie.lau@dentons.com

12 Felix T. Woo (SBN 208107)
601 S. Figueroa Street, Suite 2500
Los Angeles, CA 90017
Telephone: (213) 623-9300
Facsimile: (213) 623-9924
felix.woo@dentons.com

13 *Attorneys for Defendant Matsuo Electric Co., Ltd.*

14 GIBSON, DUNN & CRUTCHER LLP
15

16 By: /s/ George A. Nicoud III
17 George A. Nicoud III
18

19 George A. Nicoud III (SBN 160111)
20 Eli M. Lazarus (SBN 284082)
Austin V. Schwing (SBN 211696)
21 555 Mission Street
San Francisco, CA 94105-0921
Telephone: 415-393-8308
Facsimile: 415-374-8473
tnicoud@gibsondunn.com
elazarus@gibsondunn.com
aschwing@gibsondunn.com

22 Matthew Parrott (SBN 302731)
3161 Michelson Drive
Irvine, CA 92612-4412
Telephone: (949) 451-3800
Facsimile: (949) 451-4220
mparrott@gibsondunn.com

23 *Attorneys for Defendants NEC TOKIN*
24 *Corporation and NEC TOKIN America, Inc.*
25
26
27
28

1 K&L GATES LLP
2

3 By: /s/ Michael E. Martinez
4 Michael E. Martinez
5

6 Scott M. Mendel (admitted *pro hac vice*)
7 Steven M. Kowal (admitted *pro hac vice*)
8 Michael E. Martinez (admitted *pro hac vice*)
9 Lauren N. Norris (admitted *pro hac vice*)
10 Lauren B. Salins (admitted *pro hac vice*)
11 70 West Madison Street, Suite 3100
12 Chicago, IL 60602
13 Telephone: (312) 372-1121
14 michael.martinez@klgates.com
15

16 *Attorneys for Defendants Nichicon Corporation and*
17 *Nichicon (America) Corporation*
18

19 LATHAM & WATKINS LLP
20

21 By: /s/ Ashley M. Bauer
22 Ashley M. Bauer
23

24 Belinda S. Lee (SBN 199635)
25 Ashley M. Bauer (SBN 231626)
26 505 Montgomery Street, Suite 2000
27 San Francisco, CA 94111-6538
28 Telephone: (415) 391-0600
Facsimile: (415) 395-8095
belinda.lee@lw.com
Ashley.bauer@lw.com
29

30 *Attorneys for Defendant Nitsuko Electronics Corporation*
31

32 BAKER & MCKENZIE LLP
33

34 By: /s/ Douglas Tween
35 Douglas Tween
36

37 Douglas Tween (admitted *pro hac vice*)
38 Darrell Prescott (admitted *pro hac vice*)
39 Catherine Stillman (admitted *pro hac vice*)
40 452 Fifth Avenue
41 New York, NY 10018
42 Telephone: (212) 626-4355
43 Facsimile: (212) 310-1655
44 Douglas.Tween@bakermckenzie.com
45 Darrell.Prescott@bakermckenzie.com
46

1 Catherine.Stillman@bakermckenzie.com
2

3 Meghan E. Hausler (admitted *pro hac vice*)
4 2300 Trammell Crow Center
5 2001 Ross Avenue
6 Dallas, TX 75201
7 Telephone: (214) 965-7219
8 Facsimile: (214) 965-5937
9 Meghan.Hausler@bakermckenzie.com
10

11 Colin H. Murray (SBN 159142)
12 Two Embarcadero Center, 11th Floor
13 San Francisco, CA 94111
14 Telephone: (415) 591-3244
15 Facsimile: (415) 576-3099
16 Colin.Murray@bakermckenzie.com
17

18 *Attorneys for Defendant Okaya Electric Industries Co., Ltd.*

19 WINSTON & STRAWN LLP
20

21 By: /s/ Jeffrey L. Kessler
22 Jeffrey L. Kessler
23

24 Jeffrey L. Kessler (admitted *pro hac vice*)
25 A. Paul Victor (admitted *pro hac vice*)
26 Molly M. Donovan (admitted *pro hac vice*)
27 Mollie C. Richardson (admitted *pro hac vice*)
28 200 Park Avenue
1 New York, New York 10166
2 Telephone: (212) 294-4698
3 Facsimile: (212) 294-4700
4 jkessler@winston.com
5 pvictor@winston.com
6 mmdonovan@winston.com
7 mrichardson@winston.com
8

9 Ian L. Papendick (SBN 275648)
10 101 California Street
11 San Francisco, CA 94111
12 Telephone: (415) 591-6905
13 Facsimile: (415) 591-1400
14 iapendick@winston.com
15

16 *Counsel for Defendants Panasonic Corporation, Panasonic*
17 *Corporation of North America, SANYO Electric Co., Ltd.,*
18 *SANYO North America Corporation*
19

1 O'MELVENY & MYERS LLP
2

3 By: /s/ Michael F. Tubach
Michael F. Tubach

4 Michael F. Tubach (SBN 145955)
5 Christina J. Brown (SBN 242130)
6 Two Embarcadero Center, 28th Floor
7 San Francisco, CA 94111
Telephone: (415) 984-8700
Facsimile: (415) 984-8701
mtubach@omm.com
cjbrown@omm.com

9 Kenneth R. O'Rourke (SBN 120144)
10 400 South Hope Street, 18th Floor
11 Los Angeles, CA 90071
Telephone: (213) 430-6000
Facsimile: (213) 430-6407
korourke@omm.com

13 *Attorneys for Defendants ROHM Co., Ltd. and*
14 *ROHM Semiconductor U.S.A., LLC*

15 HUNTON AND WILLIAMS LLP

16 By: /s/ Djordje Petkoski
Djordje Petkoski

18 Djordje Petkoski (admitted pro hac vice)
19 David A. Higbee (admitted pro hac vice)
Leslie W. Kostyshak (admitted pro hac vice)
2200 Pennsylvania Avenue, N.W.
20 Washington, D.C. 20037
Telephone: (202) 955-1500
Facsimile: (202) 778-2201
dpetkoski@hunton.com
dhigbee@hunton.com
lkostyshak@hunton.com

24 M. Brett Burns (SBN 256965)
575 Market Street, Suite 3700
25 San Francisco, California 94105
Telephone: (415) 975-3700
Facsimile: (415) 975-3701
mbrettburns@hunton.com

28 *Attorneys for Defendants Rubycon Corporation and*

Rubycon America Inc.

McKENNA LONG & ALDRIDGE LLP

By: */s/ Andrew S. Azarmi*
Andrew S. Azarmi

Andrew S. Azarmi (SBN 241407)
Spear Tower, One Market Plaza, 24th Floor
San Francisco, CA 94150
Telephone: (415) 267-4000
Facsimile: (415) 267-4198
aazarmi@mckennalong.com

Gaspare J. Bono (admitted *pro hac vice*)
Stephen M. Chippendale (admitted *pro hac vice*)
Claire M. Maddox (admitted *pro hac vice*)
1900 K Street, NW
Washington, DC 20006
Telephone: (202) 496-7500
Facsimile: (202) 496-7756
gbono@mckennalong.com
schippendale@mckennalong.com
cmaddox@mckennalong.com

Attorneys for Defendants Shinyei Kaisha, Shinyei Technology Co., Ltd., Shinyei Capacitor Co., Ltd., and Shinyei Corporation of America, Inc.

HUGHES HUBBARD & REED LLP

By: /s/ Ethan E. Litwin
Ethan E. Litwin

Ethan E. Litwin (admitted *pro hac vice*)
Morgan J. Feder (admitted *pro hac vice*)
One Battery Park Plaza
New York, NY 10004-1482
Telephone: (212) 837-6000
Facsimile: (212) 422-4726
Ethan.Litwin@hugheshubbard.com
Morgan.Feder@hugheshubbard.com

David H. Stern (CA Bar No. 196408)
Carolin Sahimi (CA Bar No. 260312)
350 South Grand Avenue
Los Angeles, CA 90071-3442
Telephone: (213) 613-2800

1 Facsimile: (213) 613-2950
2 David.Stern@hugheshubbard.com
3 Carolin.Sahimi@hugheshubbard.com

4
5 *Attorneys for Defendant 060 Electric Co., Ltd.*

6 ROPES & GRAY LLP

7 By: /s/ Mark S. Popofsky
8 Mark S. Popofsky

9 Mark S. Popofsky (SBN 175476)
10 One Metro Center
11 700 12th Street NW, Suite 900
12 Washington, DC 20005-3948
13 Telephone: (202) 508-4624
14 Facsimile: (202) 508-4650
15 mark.popofsky@ropesgray.com

16 Jane E. Willis (admission *pro hac vice* pending)
17 800 Boylston Street
18 Boston, MA 02199-3600
19 Telephone: (617) 951-7603
20 Facsimile: (617) 235-0435
21 jane.willis@ropesgray.com

22
23 *Attorneys for Taitsu Corporation and Taitsu*
24 *America, Inc.*

25 Pursuant to Civil L. R. 5-1(e)(3), I attest that concurrence in the filing of this document
26 has been obtained from each of the other signatories above.

27 Dated: June 3, 2015

28 By: /s/ Michael F. Tubach